



EXHIBIT 1  
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HB 352

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HB 352

## Department of Environmental Quality Testimony

### Natural Resources Committee

2/2/2011

Montana's Public Water Supply Program has been approved by the EPA to implement the minimum federal requirements for public water supplies in Montana as the primacy agency. That approval gives the program some flexibility in working with the state's public water supplies in complying with the laws and rules in statute and the adopted rules in the Administrative Rules of Montana. The Public Water Supply Program is entrusted by the residents of Montana to assure that the water they receive from a tap in their home, a restaurant or living facilities such as retirement homes, schools, or hospitals, is safe to drink.

There are two types of contaminants that the program regulates to ensure public health is protected. The first type of contaminant is "acute" and the second type is "non-acute". Acute contaminants have the ability to cause illness or death by drinking water contaminated with fecal content or high nitrate levels in water used for infant formula. Non-Acute contaminants' such as lead or uranium have the ability over long term exposure to cause illnesses, e.g. cancer, neurological disorders, mental deficiencies, fetal defects, and other long term health effects. The exceedence of both types of set contaminant levels by the EPA is a Maximum Contaminant Level (MCL) violation of the Safe Drinking Water Act.

The Public Water Supply Program currently regulates "bottled water" suppliers and "water haulers" in the State of Montana as public water supplies. Bottled water is currently allowed in the adopted federal regulations as an interim method of supplying water to customers when a system is in violation of a Maximum Contaminant Level or in an emergency situation. Posting public notice is a requirement in the rules to warn customers that the water is in violation of safe levels or microbiological contamination. Posting public notice on a permanent basis is not an approved method for treating an MCL.

A system which exceeds an MCL and cannot abate the contamination or connect to a non-contaminated source has one option, to install treatment. The public water supply is placed under a consent order which requires the system to submit a compliance plan. The plan is reviewed and approved through a cooperative agreement between the public water supplier, the regulatory program and the enforcement division. Interim compliance measures already acceptable in the plan are, bottled water use, boil water

notices, temporary chlorination and delivery of public notices to all consumers by hand and media or posting in rest rooms or public areas of a facility.

The advancements in drinking water protection in the US since the early 1900's, has given consumers confidence that in Anytown USA, the water is safe to drink. The proposed action in the bill is a huge step backwards in the confidence of the safety of drinking water at the tap. The risk to the owner of a public water supply and the customers using that water supply is "too high" to allow contaminated water to be available for a consumer to fill a baby bottle or water bottle unknowingly, from a contaminated source. The cost for a public water supply to provide bottled water for every customer or homeowner for drinking, bathing, brushing teeth and cooking would be cost prohibitive.

The Safe Drinking Water Act does not allow use of bottled water as a permanent solution to an MCL exceedence. This bill is in direct conflict with the federal rule which states, "Public water systems shall not use bottled water to achieve compliance with an MCL. Bottled water may be used on a temporary basis to avoid unreasonable risk to health".

If this bill is successful, the EPA, which provides oversight and funding for Montana's drinking water program, would become the primary enforcement agency and take action against the system to correct the contamination problem. The State of Montana cannot be less stringent than the adopted Federal Rules. This bill creates laws less stringent than the federal rules and would be a change of the primacy requirements in the agreement between EPA and the State. Variances and exemptions of the Safe Drinking Water Act can only be approved by the EPA Administrator.

Current federal regulations adopted by the state already allow the state flexibility to implement the use of bottled water and public notice as a temporary measure for the protection of public health from contaminated drinking water.